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6
7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**

9 Kirby Spencer,

10 Plaintiff,

11 vs.

12 LTD Financial Services, L.P., A Foreign Limited
Partnership doing business in Nevada.

13 Defendant.

) CASE NO.:

) **COMPLAINT FOR DAMAGES FOR**
) **VIOLATION OF THE TELEPHONE**
) **CONSUMER PROTECTION ACT,**
) **47 U.S.C. § 227 ET. SEQ.**

) **JURY TRIAL DEMANDED**

14 **COMPLAINT**

15 COMES NOW the Kirby Spencer (Client) ("Plaintiff"), by and through his attorney, Craig
16 K. Perry, Esq. of the law firm of Craig K. Perry & Associates, and alleges the following against
17 LTD Financial Services, L.P. ("LTD").

18 **INTRODUCTION**

19 1. Plaintiff's Complaint is based on the Telephone Consumer Protection Act, 47
20 U.S.C. §227 *et seq.* ("TCPA").

21 **JURISDICTION AND VENUE**

22 2. Jurisdiction of this Court arises pursuant to 47 U.S.C § 227(g)(2), and 28 U.S.C. §
23 1331 grants this court original jurisdiction of all civil actions arising under the laws of the United
24 States.

25 3. LTD Financial Services, L.P., conducts business in the State of Nevada and
26 therefore, personal jurisdiction is established.

27 4. Venue in this District is proper pursuant to 47 U.S.C § 227(e)(6)(E)(i), which
28 incorporates by reference 28 U.S.C § 1391, of which the following subsections apply: (b)(2),

1 because a substantial part of the events giving rise to the claim arose in Nevada, and (c)(1),
2 because Plaintiff is a resident of the state of Nevada.

3 5. Declaratory relief is available pursuant to 28 U.S.C. §§ 2201 and 2202.

4 **PARTIES**

5 6. Plaintiff is a natural person residing in Henderson, Nevada.

6 7. Plaintiff is both a “person” and “called party” as those terms are used or defined in
7 47 U.S.C § 227.

8 8. LTD is a Texas Company doing business in Nevada and for whom a principal
9 purpose of its business is the collection of debts.

10 9. LTD is properly referred to as both a “person” and a “caller” as those terms are
11 used or defined in 47 U.S.C § 227.

12 **STATEMENT OF FACTS**

13 10. Plaintiff repeats, re-alleges, and incorporates by reference paragraphs 1 through 9
14 inclusive, above.

15 11. Beginning on or about August 6, 2013 thru January 21, 2014, LTD contacted or
16 attempted to contact the Plaintiff’s paging service, cellular telephone service, specialized mobile
17 radio service, radio common carrier service, or any service for which the called party is charged
18 for the call-using a facsimile transmission, text messages, automatic telephone dialing system,
19 artificial or prerecorded voice. Attached hereto as Exhibit “1”.

20 12. LTD does not have an established business relationship with the Plaintiff.

21 13. LTD did not have the prior express consent of the Plaintiff before making the calls
22 described in paragraph 11 above.

23 **CLAIM FOR RELIEF**

24 **DEFENDANT VIOLATED THE TELEPHONE CONSUMER PROTECTION ACT**

25 14. Plaintiff repeats, re-alleges, and incorporates by reference paragraphs 1 through 13
26 inclusive, above.

1 15. Section 227(b)(3)(A) of the TCPA authorizes a private cause of action for a person
2 or entity to bring in an appropriate court of that state “an action based on a violation of this
3 subsection or the regulations prescribed under this subsection to enjoin such violation.”

4 16. Section 227(b)(3)(B), of the Act authorizes a private cause of action for a person or
5 entity to bring in an appropriate court of that state “an action to recover for actual monetary loss
6 from such a violation, or to receive \$500 in damages for each such violation, whichever is
7 greater.”

8 17. Despite the fact that Plaintiff never consented to LTD making calls to his cellular
9 telephone, LTD repeatedly placed non-emergency calls to Plaintiff’s cellular telephone without
10 Plaintiff’s consent.

11 18. The Act also authorizes the Court, in its discretion, to award up to three (3) times
12 the actual damages sustained for violations when they are done “willfully and knowingly.”

13 19. Here, upon information and belief, LTD repeatedly and regularly placed non-
14 emergency, automated calls to Plaintiff’s cellular telephone.

15 20. LTD did not have Plaintiff’s express consent prior to contacting him on his cellular
16 telephone using an automatic telephone dialing system or pre-recorded or artificial voice.

17 21. LTD’s conduct violated § 227(b)(1)(A)(iii) of the TCPA by making any call by
18 way of SMS text messaging using any automatic telephone dialing system or an artificial
19 prerecorded voice to a telephone number assigned to a cellular telephone service.

20 WHEREFORE, Plaintiff, Kirby Spencer (Client), respectfully prays for a judgment as
21 follows:

- 22 a. Actual damages;
23 b. Statutory damages up to \$1,500 per violation;
24 c. Reasonable attorney’s fees and costs; and
25 d. Any other relief deemed appropriate by this Honorable Court.

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DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, Kirby Spencer (Client), demands a trial by jury in this case.

DATED: July 10, 2014

RESPECTFULLY SUBMITTED,

CRAIG K. PERRY & ASSOCIATES



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